

## Employee Benefits Security Admin., Labor

## § 2575.502c-6

2575.502c-3 Adjusted civil penalty under section 502(c)(3).

2575.502c-5 Adjusted civil penalty under section 502(c)(5).

2575.502c-6 Adjusted civil penalty under section 502(c)(6).

### Subparts B-D [Reserved]

AUTHORITY: 29 U.S.C. 1135; 28 U.S.C. 2461 note; Secretary of Labor's Order 1-2003, 68 FR 5374 (Feb. 3, 2003).

SOURCE: 64 FR 42246, Aug. 3, 1999, unless otherwise noted.

### Subpart A—Adjustment of Civil Penalties Under ERISA Title I

SOURCE: 62 FR 40699, July 29, 1997, unless otherwise noted. Redesignated at 64 FR 42246, Aug. 3, 1999.

#### § 2575.100 In general.

Section 31001(s) of the Debt Collection Improvement Act of 1996 (the Act, Public Law 104-134, 110 Stat. 1321-373) amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (the 1990 Act, Public Law 101-410, 104 Stat. 890) to require generally that the head of each Federal agency adjust the civil monetary penalties subject to its jurisdiction for inflation within 180 days after enactment of the Act and at least once every four years thereafter.

[68 FR 2878, Jan. 22, 2003]

#### § 2575.209b-1 Adjusted civil penalty under section 209(b).

In accordance with the requirements of the 1990 Act, as amended, the amount of the civil monetary penalty established by section 209(b) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from \$10 for each employee to \$11 for each employee. This adjusted penalty applies only to violations occurring after July 29, 1997.

#### § 2575.502c-1 Adjusted civil penalty under section 502(c)(1).

In accordance with the requirements of the 1990 Act, as amended, the maximum amount of the civil monetary penalty established by section 502(c)(1) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from \$100

a day to \$110 a day. This adjusted penalty applies only to violations occurring after July 29, 1997.

#### § 2575.502c-2 Adjusted civil penalty under section 502(c)(2).

In accordance with the requirements of the 1990 Act, as amended, the maximum amount of the civil monetary penalty established by section 502(c)(2) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from \$1000 a day to \$1100 a day. This adjusted penalty applies only to violations occurring after July 29, 1997.

#### § 2575.502c-3 Adjusted civil penalty under section 502(c)(3).

In accordance with the requirements of the 1990 Act, as amended, the maximum amount of the civil monetary penalty established by section 502(c)(3) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from \$100 a day to \$110 a day. This adjusted penalty applies only to violations occurring after July 29, 1997.

#### § 2575.502c-5 Adjusted civil penalty under section 502(c)(5).

In accordance with the requirements of the 1990 Act, as amended, the maximum amount of the civil monetary penalty established by section 502(c)(5) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from \$1,000 a day to \$1,100 a day. This adjusted penalty applies only to violations occurring after March 24, 2003.

[68 FR 2879, Jan. 22, 2003]

#### § 2575.502c-6 Adjusted civil penalty under section 502(c)(6).

In accordance with the requirements of the 1990 Act, as amended, the maximum amount of the civil monetary penalty established by section 502(c)(6) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from \$100 a day but in no event in excess of \$1,000 per request to \$110 a day but in no event in excess of \$1,100 per request. This adjusted penalty applies only to

violations occurring after March 24, 2003.

[68 FR 2879, Jan. 22, 2003]

### Subparts B–D [Reserved]

## PART 2578—RULES AND REGULATIONS FOR ABANDONED PLANS

Sec.

2578.1 Termination of abandoned individual account plans.

AUTHORITY: 29 U.S.C. 1135; 1104(a); 1103(d)(1).

### § 2578.1 Termination of abandoned individual account plans.

(a) *General.* The purpose of this part is to establish standards for the termination and winding up of an individual account plan (as defined in section 3(34) of the Employee Retirement Income Security Act of 1974 (ERISA or the Act)) with respect to which a qualified termination administrator (as defined in paragraph (g) of this section) has determined there is no responsible plan sponsor or plan administrator within the meaning of section 3(16)(B) and (A) of the Act, respectively, to perform such acts.

(b) *Finding of abandonment.* (1) A qualified termination administrator may find an individual account plan to be abandoned when:

(i) Either: (A) No contributions to, or distributions from, the plan have been made for a period of at least 12 consecutive months immediately preceding the date on which the determination is being made; or

(B) Other facts and circumstances (such as a filing by or against the plan sponsor for liquidation under title 11 of the United States Code, or communications from participants and beneficiaries regarding distributions) known to the qualified termination administrator suggest that the plan is or may become abandoned by the plan sponsor; and

(ii) Following reasonable efforts to locate or communicate with the plan sponsor, the qualified termination administrator determines that the plan sponsor:

(A) No longer exists;

(B) Cannot be located; or

(C) Is unable to maintain the plan.

(2) Notwithstanding paragraph (b)(1) of this section, a qualified termination administrator may not find a plan to be abandoned if, at any time before the plan is deemed terminated pursuant to paragraph (c) of this section, the qualified termination administrator receives an objection from the plan sponsor regarding the finding of abandonment and proposed termination.

(3) A qualified termination administrator shall, for purposes of paragraph (b)(1)(ii) of this section, be deemed to have made a reasonable effort to locate or communicate with the plan sponsor if the qualified termination administrator sends to the last known address of the plan sponsor, and, in the case of a plan sponsor that is a corporation, to the address of the person designated as the corporation's agent for service of legal process, by a method of delivery requiring acknowledgement of receipt, the notice described in paragraph (b)(5) of this section.

(4) If receipt of the notice described in paragraph (b)(5) of this section is not acknowledged pursuant to paragraph (b)(3) of this section, the qualified termination administrator shall be deemed to have made a reasonable effort to locate or communicate with the plan sponsor if the qualified termination administrator contacts known service providers (other than itself) of the plan and requests the current address of the plan sponsor from such service providers and, if such information is provided, the qualified termination administrator sends to each such address, by a method of delivery requiring acknowledgement of receipt, the notice described in paragraph (b)(5) of this section.

(5) The notice referred to in paragraph (b)(3) of this section shall contain the following information:

(i) The name and address of the qualified termination administrator;

(ii) The name of the plan;

(iii) The account number or other identifying information relating to the plan;

(iv) A statement that the plan may be terminated and benefits distributed pursuant to 29 CFR 2578.1 if the plan sponsor fails to contact the qualified